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LABOUR DEPARTMENT.

No. L.S. 3639—L.W. 172-52-15, dated Bangalore, 4th October 1952.

Labour Disputes.—Disputes between Workers and Management of Messrs. K. H. Shama Rao & Sons, Bangalore, Award of the Industrial Tribunal, Bangalore, published.

Read the following papers:—

(1) Letter dated 12—16th September 1952, from Sri B. R. Ramalingaiah, Chairman, Industrial Tribunal, Bangalore.

BEFORE THE INDUSTRIAL TRIBUNAL, BANGALORE.

2nd September 1952.

Present.

Sri B. R. Ramalingaiah, M.A., B.L.	...	... *Chairman*
Sri Mahmood Sheriff, B.A., LL.B.	...	... *Member*
Sri K. Shamaraja Iyengar, B.A.	...	... *Member*

I. C. 17 of 1951-52.

Industrial dispute between the Management and the Employees of Messrs. K. H. Shama Rao & Sons, Bangalore.

AWARD.

Complaint No. 2 of 1952-53.

This is a complaint filed by the complainant, Token No. 92, under Section 33 (A) of the Industrial Disputes Act, 1947. It is alleged in the complaint that during the pendency of the dispute I. C. 17 of 1951-52, before this Tribunal the Respondent (Management) fined the petitioner Re. 1 on 11th February 1952 without seeking the prior written permission of this Tribunal under Section 33 of the Industrial Disputes Act. The levy is therefore illegal. The complainant further has alleged that he has been suspended from work for 1½ days from 8th March 1952 by the Respondent and that on 29th March 1952 the Respondent has served a notice on the complainant that he has been dismissed from service from 7th April 1952, and that he has been kept out of work from 7th April 1952. As the Respondent (Management) has done these acts also without the prior permission of the Tribunal, these acts also are illegal. The complainant therefore prays that the order of his discharge be cancelled and the complainant be restored back to work with compensation and that the fine levied be also ordered to be paid back to him.

In the objection statement the Respondent (Management) has admitted that the *complainant Abdul Razack* was punished as alleged in the complaint. The

employer has also expressed regret for the omission that has occurred for having failed to take permission of this Tribunal before subjecting the complainant to the punishments as there was a honest and *bona fide* belief that, as the misconduct for which the employee was punished, was not connected with the dispute, no permission was necessary from the Tribunal.

It is an undisputed fact that at a time when the punishments referred to above, were inflicted on the complainant, the said dispute I. C. 17 of 1951-52 was pending before the Tribunal. Hence, having regard to Section 33 of the Industrial Disputes Act, the Respondent (Management) could not have legally subjected the complainant to these punishments without the prior written permission of this Tribunal. Hence, the punishments imposed on the complainant, cannot be upheld.

In the result we allow the complaint, set aside the fine of Re. 1 imposed on 11th February 1952 and direct its refund to him, and also set aside the order of suspension from work for 1½ days from 8th March 1952 with a direction that the complainant shall be paid his wages for 1½ days. We further also set aside the order of discharge from service with effect from 7th April 1952 and direct that if he appears before the Management and claims reinstatement within 15 days after the award becomes enforcible, the complainant be taken back to service and that he shall be given as compensation only 15 days' wages with Dearness Allowance, there being no evidence on his side to show that he was unemployed throughout from 7th April 1952 up till now. The Award will be submitted to Government for publication in the Official Gazette.

Complaint No. 4 of 1951-52.

This is complaint filed under Section 33 (A) of the Industrial Disputes Act, 1947, by the complainant Ramaprasad, Token No. 460, against the Respondent (Management Messrs. K. H. Shama Rao & Sons, Bangalore). It is alleged in the petition that the complainant was fined Re. 0-4-0 on 18th February 1952 during the pendency of the industrial dispute I. C. 17 of 1951-52, by the Respondent, who had not obtained the previous permission of this Tribunal under Section 33 of the Industrial Disputes Act, 1947 and, that hence the levy of the fine is illegal. The complainant pravs for an Award directing the Respondent to refund the said sum of Re. 0-4-0 to him. The Respondent at first objected to the complaint on theground that no fine was levied on 18th February 1952, but later on when the petitioner filed his reply stating that the said fine was levied on 5th February 1952 and not on 18th February 1952 as alleged in the complaint, the Counsel for the Management submitted that the complaint may be allowed, as the Management would refund the amount of fine imposed on the complainant. In the light of the submission now made by the Management, we allow the complaint and direct the Respondent (Management) to refund the said sum of Re. 0-4-0 to the complainant. eW make no orders to the cost of the application. The award will be submitted to voGernment for publication in the Official Gazette.

Complaint No. 7 of 1951-52.

This is a complaint under Section 33 (A) of the Industrial Disputes Act, 1947. The petitioners have alleged in this complaint, which they have made against the Respondent (Management—K. H. Shama Rao & Sons, Bangalore), that the Respondent has been guilty of the contravention of the provisions of the Industrial Disputes

Act by reason of the fact that the Respondent has fined each of the complainants as detailed below.

	Name of the complainant		*Amount of fine*					*Date of levy of fine.*
		Token No.		Rs.	a.	p.	Rs. a. p.	
1	Rangadamappa	232	...	0	8	0	.....	22-2-52
2	Doraiswamy	289	...	0	8	0	.....	27-2-52
3	Santhosappa	352	...	0	8	0	0 4 0	28-2-52
							0 4 0	5-3-52
4	Visvanatha	164	...	0	8	0	.....	4-3-52
5	Ganesh	115	...	0	12	0	0 4 0	4-3-52
							0 4 0	29-4-52
							0 4 0	16-5-52
6	Sannashiva	515	...	0	4	0	.....	4-3-52
7	Sarvothamma	181	...	0	8	0	.....	13-3-52
8	Chowri	100	...	0	8	0	.....	6-3-52
9	N. V. Ramiah	33	...	0	8	0	.....	12-4-52
10	Govindaraj	401	...	0	8	0	.....	14-4-52
11	Lakshmana Rao	718	...	0	4	0	.....	14-4-52
12	Gangadharappa	107	...	0	8	0	.....	15-4-52
13	Mahboob	697	...	0	8	0	.....	17-4-52
14	Mohd. Hjt. Sheriff	171	...	0	4	0	.....	18-4-52
15	Chandaran	123	...	0	8	0	0 4 0	18-4-52
							0 4 0	28-4-52
16	Dhanasingh	281	...	0	8	0	.....	29-4-52
17	Muniyappa	367	...	0	8	0	.....	28-4-52
18	Gangadharappa	692	...	1	0	0	.....	2-5-52
19	Hanumantha Rao	560	...	0	8	0	0 4 0	6-5-52
							0 4 0	12-5-52
20	Alexandar	412	...	0	8	0	.....	6-5-52
21	Basha	2	...	0	8	0	.....	9-5-52
22	Md. Issac	24	...	0	8	0	.....	9-5-52

The Respondent has not sought the permission of this Tribunal under Section 33 of the said Act before levying the fines as the proceedings of the said case are pending adjudication before this Tribunal. Hence, the levy of the fines is illegal. The complainants pray that an award may be passed directing the employers to refund the fines to them. The Respondent at first objected to the complaint. Later on, during the time of arguments, the Counsel for the the Management submitted that the complaint may be allowed as the Management would refund the fines levied on them.

As per Section 33 of the Industrial Disputes Act, 1947, the Management should not have levied the fines without the prior permission in writing of this Tribunal. Hence, the levy of fines on the complainants, as rightly contended by them, is illegal. In view of the submission made by the Management's counsel at the time of arguments the Management has now conceded that levy of the fines illegal. In the result, we allow the complaint and set aside the fines and direct that the Management shall refund the fine amounts to the complainants. We make no orders to the cost of the application. The Award will be submitted to Government for publication in the Official Gazette.

B. R. RAMALINGAIAH,
Chairman.

MAHMOOD SHERIFF,
Member.

K. SHAMARAJA IYENGAR,
Member.

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ORDER No. L.S. 3639—L.W. 172-52-15, DATED BANGALORE, THE 4TH OCTOBER 1952.

WHEREAS under Section 33 (A) of the Industrial Disputes Act, 1947 (Central Act XIV of 1947), a complaint was made by Sri Abdul Razack, Token No. 92 and two other Workers of Messrs. K. H. Shama Rao & Sons, Bangalore to the Industrial Tribunal, Bangalore, that the Management of Messrs. K. H. Shama Rao & Sons, has during the pendency of proceedings before the said Tribunal, contravened the provisions of Section 33 of the said Act;

And whereas the Award of the said Tribunal in respect of the said complaint has been received;

Now, therefore, in exercise of the powers conferred by Section 17 of the said Act, the Government of Mysore hereby direct that the said Award, as above, be published in the *Mysore Gazette*.

By Order of His Highness the Maharaja,

N. R. JAYA RAO,
Secretary to Government,
Law Department.